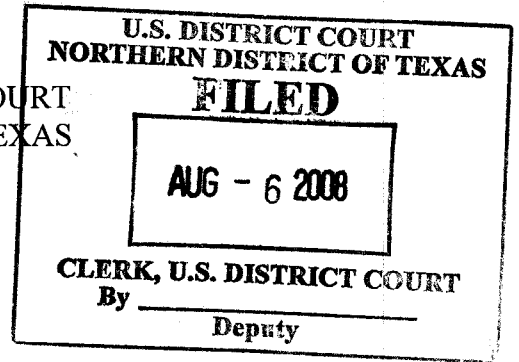


IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION



EARLY GARNER, PRO SE,  
TDCJ-CID No. 590842,

Plaintiff,

v.

Dr. JULITO UY, Dr. MITCHELL JONES,  
Warden NFN NUNN, Warden NFN ZELLER,  
and  
Dr. NFN REVELL,

Defendants.

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2:06-CV-0303

**ORDER OF DISMISSAL**

Plaintiff EARLY GARNER, acting pro se, filed suit pursuant to Title 42, United States Code, section 1983 complaining against the above-named defendant and was granted permission to proceed *in forma pauperis*.

On May 13, 2008, a Report and Recommendation was issued by the United States Magistrate Judge recommending that plaintiff's claims against defendants Dr. JULITO UY, Dr. MITCHELL JONES, and Dr. NFN REVELL be dismissed with prejudice as frivolous and recommending that plaintiff's claims against Warden NFN NUNN and Warden NFN ZELLER be dismissed without prejudice for failure to state a claim on which relief can be granted.

Plaintiff filed his objections on June 9, 2008.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation, as well as plaintiff's Objections.

The Court is of the opinion that plaintiff's Objections should be OVERRULED and the

Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court.

This Court, therefore, does hereby OVERRULE plaintiff's Objections and does ADOPT the Report and Recommendation of the United States Magistrate Judge.

IT IS THEREFORE ORDERED that the Civil Rights Complaint by plaintiff EARLY GARNER be DISMISSED WITH PREJUDICE AS FRIVOLOUS as to defendants Dr. JULITO UY, Dr. MITCHELL JONES, and Dr. NFN REVELL, and DISMISSED WITHOUT PREJUDICE FOR FAILURE TO STATE A CLAIM ON WHICH RELIEF CAN BE GRANTED as to defendants Warden NFN NUNN and Warden NFN ZELLER.


LET JUDGMENT BE ENTERED ACCORDINGLY.

Any pending motions are DENIED.

The Clerk shall send a copy of this Order to plaintiff and to any attorney of record.

IT IS SO ORDERED.

ENTERED this 6<sup>th</sup> day of August 2008.

  
MARY LOU ROBINSON  
UNITED STATES DISTRICT JUDGE